

FILE NO.A34054-PCT-USA 072975.0110
PATENT

REMARKS

This paper is being filed in response to the Office Action dated November 16, 2001.

Applicants respectfully request reconsideration of the above-identified application in light of the amendments and remarks presented in the instant Response.

Claims 1-11 are pending. Claims 12-14 have been canceled as drawn to nonelected species without prejudice and subject to filing in one or more divisional applications.

The Examiner has issued a restriction requirement alleging that the application contains separately patentable inventions as follows:

Group I: Claims 1-3 and 6-11, drawn to an isolated DNA molecule, vector, a host cell, and method for producing a human lysozyme.

Group II: Claims 4 and 5, drawn to a human lysozyme.

Group III: Claim 12, drawn to an antibody.

Group IV: Claim 13, drawn to an antisense DNA molecule.

Group V: Claim 14, drawn to a DNA probe.

Applicant provisionally elects the claims of Group I for examination in the present application, with traverse, pursuant to 37 C.F.R. §1.143.

The Examiner has alleged that since Applicant has not contributed a special technical feature over the prior art in view of de Baetselier et al (Accession AAR05721), Groups I-V do not have a single inventive concept.

Applicant traverses this allegation and asserts that Group II possesses unity with provisionally elected Group I. While Applicant does not concede that de Baetselier is prior art to

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the instant invention, Applicant contends that the existence of a prior art reference bears only on the novelty or non-obviousness of Group II, not the unity between Groups I and II.

Combining claims to a nucleotide and the encoded protein in a single application imposes no undue search burden on the Patent and Trademark Office.

Applicant invites the Examiner's attention to related U.S. Application Ser. No. 09/786,003 filed August 30, 1999 and having the same title as the instant application wherein claims to a nucleotide and its encoded protein have not be subjected to a restriction requirement.

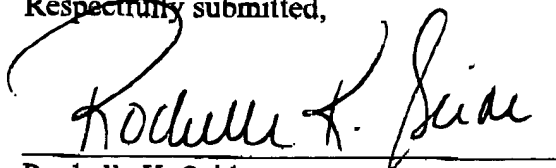
Applicant notes that a copy of the de Baetselier reference was not enclosed with the office action. Efforts to locate the reference on PubMed (<http://www.ncbi.nlm.nih.gov/PubMed/>) have been unsuccessful. *See* enclosed search results. Applicant respectfully requests a copy of the cited reference or more particular information that will enable Applicant to obtain the reference.

For the foregoing reasons, Applicant respectfully requests that the Examiner withdraw the restriction requirement as to Group II. In view of this election, Applicant requests an early action in the merits.

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Applicant believes that no fees are due with this response. Should any fees be required,
they may be charged to Deposit Account No. 02-4377. Two copies of this sheet are enclosed.

Respectfully submitted,



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PTO Reg. No. 32,300

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gi|589759|gb|I07651.1|[589759]

2: I07649

Sequence 4 from Patent EP 0362183
gi|589758|gb|I07649.1|[589758]

3: I07647

Sequence 2 from Patent EP 0362183
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